

ORDINANCE NO. 2020-06

AN ORDINANCE OF THE VILLAGE OF SALADO, TEXAS, REGULATING THE DEDICATION OF PARK LAND FOR NEW RESIDENTIAL SUBDIVISIONS, FEES IN LIEU OF DEDICATION, PARK LAND STANDARDS, AND CONSTRUCTION STANDARDS FOR PARK LAND IMPROVEMENTS; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES AND PROVIDING FOR FINDINGS OF FACT, AN EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

**WHEREAS**, the Board of Aldermen of the Village of Salado ("Board") seeks to provide for the safe and orderly development of property within its corporate limits and extraterritorial jurisdiction; and

**WHEREAS**, the estimated population of Salado is approximately 2,350, and currently there are 11.26 acres of public park land in the Village; and

**WHEREAS**, the Board finds it to be in the best interest of the Village to provide that adequate parks and recreational facilities be included with all new residential developments within the corporate limits of the Village of Salado and its extraterritorial jurisdiction; and

**WHEREAS**, the Board of Aldermen of the Village of Salado deems it in the best interest of the Village of Salado to adopt the ordinance as follows:

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE VILLAGE OF SALADO, TEXAS:**

**SECTION 1.** The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein. The Park Land Dedication Ordinance is consistent with the Village of Salado's Comprehensive Plan.

**SECTION 2.** The Park Land Dedication Ordinance is adopted as shown on *Attachment "A"*, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

**SECTION 3.** That this Ordinance shall become effective after its passage.

**SECTION 4.** This Ordinance, upon its enactment and effective date, shall repeal all conflicting provisions that may be contained in other Village ordinances or regulations except to the extent they apply to obligations and violations arising prior to the enactment of this Ordinance.

**SECTION 5.** All rights and remedies of the Village are expressly saved as to any and all violations of the provisions of any previous ordinances which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending

in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

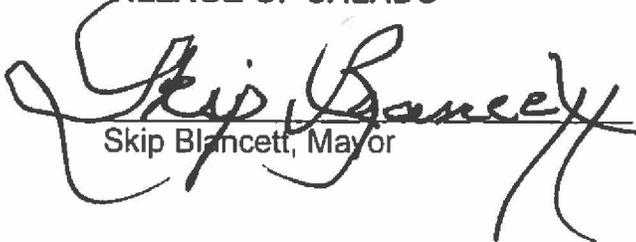
**SECTION 6.** In the event that any one or more of the provisions, clauses, or words of this ordinance or the application thereof to any situation or circumstance shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other provisions, clauses, or words of this ordinance or the application thereof to any other situations or circumstance and it is intended that this ordinance shall be severable and that it shall be construed and applied as if such invalid or unconstitutional clause, section, provision, or word had not been included herein.

**SECTION 7.** That the meeting at which this Ordinance was enacted, was open to the public as required by the Texas Open Meetings Act, and that notice of the time, place, and subject matter of the meeting was given as required by the Texas Open Meetings Act.

FIRST READING, PASSED AND APPROVED this, the 10<sup>th</sup> day of February, 2020 by a 5 (ayes) to 0 (nays) and 0 (abstentions) vote of the Board of Aldermen of Salado, Texas.

SECOND READING, PASSED AND APPROVED this, the 20<sup>th</sup> day of February, 2020 by a 4 (ayes) to 0 (nays) and 0 (abstentions) vote of the Board of Aldermen of Salado, Texas.

VILLAGE OF SALADO

  
Skip Blancett, Mayor

ATTEST

  
Cara McPartland, Village Secretary



## ATTACHMENT A

### A. Purpose

This Ordinance is adopted to provide public recreational areas in the form of neighborhood/community park facilities as a function of subdivision and site development in the Village of Salado and its Extra-Territorial Jurisdiction (ETJ). This Ordinance is enacted in accordance with the General Law powers of the Village of Salado granted under the Texas Constitution, and the statutes of the State of Texas, including, but not by way of limitation, Texas Local Government Code Chapter 212 as may be amended from time to time.

It is hereby declared by the Board of Aldermen that public recreational areas in the form of neighborhood/community parks are necessary and in the public welfare, and that the only adequate procedure to provide neighborhood/community parks is to integrate such requirements into the procedure for planning and developing property or subdivisions in the Village and its ETJ.

Neighborhood/community parks are those parks providing for a variety of outdoor recreational opportunities. Neighborhood parks are generally between two (2) to five (5) acres, are located within one half-mile to one mile from a majority of the residences to be served and can be linear in nature. Community parks are generally ten (10) to fifteen (15) acres, are located within one-mile to three-miles of the majority of the residences to be served and can be linear in nature.

The Village has adopted by action of the Board of Aldermen a Comprehensive Plan, as well as other master plans which serve as planning policy and guidance for the development of a municipal park and recreation system for the Village. The plans assess the needs for park land and park improvements.

The park districts established by the Salado Board of Aldermen are shown in Appendix A to this ordinance and shall be prima facie proof that any park located therein is within a convenient distance from any residence located therein. The primary cost of neighborhood/community parks should be borne by the landowners of residential property who, by reason of the proximity of their property to such parks, shall be the primary beneficiaries of such facilities.

### B. Applicability

- (a) This Ordinance applies to a landowner who develops land for residential use located within the Village or within its ETJ. Typically, the landowner of a proposed residential development is the developer.

- (b) Non-residential use is exempt.
- (c) This Ordinance does not apply to activities involving the remodeling, rehabilitation or other improvements to an existing residential structure, or to the rebuilding of a damaged structure.
- (d) If a dedication requirement arose prior to enactment or amendment of this Ordinance, subsequent development for the subject tract to which the dedication requirement applies may be subject to vesting as set forth in Chapter 245 Texas Local Government Code. Additional dedication may be required if there is an increase in the number of dwelling units from what was originally proposed.

### **C. General Requirements**

- (a) The Village Administrator or his/her designee shall administer this Ordinance, with certain review and approval authorities being assigned to the Board of Aldermen and various Village departments as specified herein.
- (b) As a condition of subdivision development, a developer of residential property shall be required to dedicate land for neighborhood or community parks, pay of a fee in lieu thereof or a sanctioned alternative or a combination of both. In addition to the land dedication, a developer of residential property shall pay park development fees for neighborhood or community parks.
- (c) Requirements herein are based on actual dwelling units for an entire development. Increases or decreases in final unit count may require an adjustment in fees paid or land dedicated.
- (d) Implementation process, minimum design and construction standards are set forth in the Village of Salado Park Land Dedication Manual, as may be amended from time to time, referenced herein and incorporated by reference.
- (e) The total amount of land dedicated for the development, public or private, shall be dedicated:
  - 1. In fee simple by filed deed, if dedicated to the Village; and
  - 2. Prior to the issuance of any site development building permits for multi-family development;
  - 3. Prior to recordation of the final plat for a single family, duplex, or townhouse development; and
  - 4. For a phased development the entire park shall be platted concurrently with the plat of the first phase of the development.

## **D. Park Land Dedication**

The developer of a residential property with five (5) or more lots or dwelling units, located within the corporate limits of the Village, shall set aside and dedicate to the public sufficient and suitable land for the purpose of public park land. One (1) acre of park land must be dedicated to the public for each ninety-five (95) dwelling units in the development, or fraction thereof. A minimum of two (2) acres of park land shall be dedicated to the public, regardless of the size of the development. The park land dedicated can be in the form of a single lot or an aggregate of park and open space in the development.

## **E. Park Land Dedication Procedures**

Any land dedicated under this Ordinance must be suitable for park and recreation uses and meet requirements in this Ordinance. The following guidelines and requirements shall be used in the dedication and design of park land, in conjunction with the Park Land Dedication Manual.

When considering park land dedication, the developer shall meet with the Village Administrator before a development application is submitted to evaluate the suitability of the land.

Additionally, the Village Administrator may request a site visit as a part of its determination. The following information may be required as a part of the process prior to accepting public park land dedication:

1. Lot dimensions or metes and bounds of acreage of park land to be dedicated;
2. Total acreage of land in floodplain, as well as land located outside floodplain;
3. A tree survey;
4. A slope analysis; and
5. An environmental survey identifying critical environmental features, including but not limited to species, habitat, and water features.

## **F. Park Land Acceptance Criteria**

### **General Guidelines**

Any park land dedicated to the Village, pursuant to the terms, conditions and requirements under this Ordinance must be suitable for park and recreation uses and shall be:

- (a) Encumbrances. Free and clear of any and all liens and encumbrances that interfere with its use for park purposes and permit the Village's representatives to make onsite inspections of the property for the purposes of determining site

suitability and identification of any visual hazards or impediments to park development and use.

- (b) Environmental Assessment. If the property owner or developer has any form of environmental assessment on the tract, a copy of that assessment shall be provided to the Village. The Village may initiate and/or require the developer to initiate specific environmental studies or assessments if the visual inspection of the site gives rise to the belief that an environmental problem may exist on the site. The Village Administrator may require the employment of consultants, at the cost of the developer, to evaluate any environmental issues relating to the site providing that the Village makes such determination in good faith. If an environmental hazard is identified on the site, the developer must remove the hazard prior to its acceptance into the park and recreation system of the Village. The Village will not accept park land dedication sites encumbered by hazardous and/or waste materials or dump sites.
- (c) Utilities. Require the developer to be responsible for certain minimum utilities as listed below. The Village Administrator or designee will be required to approve such location prior to final approval and release of fiscal requirements of said subdivision.
  - i. A metered water supply located 12 feet behind the curb, in accordance with the size of the park; and
  - ii. A permitted on-site sewage facility (OSSF), in accordance with the size of the park
- (d) Soils. If disturbed, shall be restored, and the soil stabilized by vegetative cover by the developer prior to dedication to the Village.
- (e) Parks should be easy to access and open to public view to benefit area development, enhance the visual character of the Village, protect public safety and minimize conflict with adjacent land use.
- (f) Park land may provide a connection to existing or future Village park land. The land available for dedication provides an opportunity to expand an existing or future Village park or trail.
- (g) Park land should support the goals of the Village's Comprehensive Plan.
- (h) A current title report must be provided with the land dedication.
- (i) The property owner shall pay all taxes or assessments owed on the property up

to the date of acceptance of the dedication by the Village. A tax certificate from the Bell County Tax Assessor shall be submitted with the dedication or plat.

#### Land Requirements

- (a) Park land requirements shall not be less than two (2) acres of contiguous land or the total park land required by Section D.
- (b) Land parcels that are unsuitable for development are typically unsuitable for a neighborhood park, and therefore should be selected prior to a subdivision being platted and acquired as a part of the development process.
- (c) Park sites should be adjacent to residential areas in a manner that serves the greatest number of users and should be located to minimize users having to cross arterial roadways to access them.
- (d) Must be located within one-mile from all residences and the distance should be uninterrupted by roads or free from physical barriers that would prohibit walkable access to the park.
- (e) Where feasible, park sites should be located adjacent to schools to encourage shared facilities and joint development of new sites. Access ways may be required to facilitate access to the park.
- (f) Sites should not be severely sloping or have unusual topography which would render the land unusable for recreational activities.
- (g) Slope must not exceed a 10% grade on more than 50% of the land.
- (h) Park must be centrally located with connectivity to looped trails and, if one exists, a Village-wide hike and bike trail, if feasible.
- (i) At least twenty-five percent (25%), or proportionate to the size of the park, of the perimeter of a park shall abut a public street.
- (j) Park must be adjacent to a street for ease of pedestrian, bike or parking accommodations.
- (k) No more than two (2) sides of the park may abut the rear of homes.
- (l) Park must include at least visible, attractive and suitable means of ingress and egress proportionate to the size and amenities in the park.

- (m) The site should not be encumbered by overhead utility lines or easements of any type which might limit the opportunity for park and recreation development.
- (n) Rare, unique, endangered, historic or other significant natural areas will be given a high priority for dedication pursuant to this Ordinance. Areas that provide an opportunity for linkages between parks or that preserve the natural character of the surrounding environment may be required by the Village to be included in the park land dedication. Park land should have well-drained and suitable soils and level topography.
- (o) Consideration will be given to land that is in the floodplain or may be considered "floodable" even though not in a federally regulated floodplain if, due to its elevation, it is suitable for park improvements. At the discretion of the Village, land in floodplains may be considered as part of a dedication requirement on a three for one (3:1) basis. That is, three (3) acres of floodplain will be equal to one (1) acre of park land and not more than 50% of park land shall be allowed in a floodplain.
- (p) Detention/retention areas may not be used to meet dedication requirements but may be accepted in addition to the required dedication. If accepted as part of the park, the detention/retention area design must meet specifications established by the Village.

#### **G. Fee in Lieu of Park Land**

The developer of a residential property with five (5) or more lots or dwelling units located within the corporate limits of the Village may pay the Village a fee in lieu of dedication of public park land in the amount of \$842 per dwelling unit in the development.

For residential developments with five (5) or more lots or dwelling units located in the Village's extraterritorial jurisdiction (ETJ), the developer shall pay the Village a fee in lieu of dedication of public park land in the amount of \$842 per dwelling unit in the development.

The Village may from time to time decide to purchase land for parks or own land in or near the area of actual or potential development. If the Village does purchase park land or owns land, the Village shall have the right to require subsequent park land dedications in the surrounding area to be in cash so long as the park has the capacity to serve the development's neighborhood park requirements, meets the service area requirements of a neighborhood park, the cash is used for neighborhood park capital improvements or capital replacements and the land is dedicated as a park. In the event the park is fully improved to neighborhood park standards and no capital replacements are anticipated within two years, the cash may be used for capital improvements to the

neighborhood park nearest the development boundary.

## **H. Park Development Fee**

In addition to the park land dedication or fee in lieu of requirements, park development fees are established herein, sufficient to develop neighborhood and community public parks in ways that meet the Village of Salado's standards.

The amount of development fees assessed to a development and the basis for the calculation is \$3,388 per dwelling unit in the development. The development fee shall be collected from the developer of residential development, regardless of the number of lots or dwelling units in the development and regardless of whether the development is located within the corporate limits of the Village or its ETJ. The process for the approval and collection of development fees shall be the same as for the park land dedication requirements as specified in Sections E and G. The park development fees shall be processed simultaneously with the park land dedication requirements.

## **I. Public Park Improvement In Lieu of Park Development Fee**

With approval of the Village, a developer may elect to construct required park improvements in lieu of paying the associated development fee as set forth herein.

In such event:

Facilities and improvements provided by a developer shall be constructed on lands dedicated as public park land and shall be designed and installed to meet the terms, conditions and requirements under this Ordinance, or as otherwise approved by the Village Administrator, in accordance with related federal, national, state or local codes including but not limited to the following:

1. International Play Equipment Manufacturer's Association (IPEMA);
2. Consumer Product Safety Commission (CPSC) Handbook for Public Safety;
3. American Society for Testing and Materials (ASTM and ASTM F08);
4. Accessibility Standards for Play Areas through the ADA Accessibility Guidelines (ADAAG);
5. Illuminating Engineering Society of North American (IESNA RP-6-01); and
6. Sports Turf Management Association (STMA).

### **General Requirements for Public Park Improvements**

- (a) A park site plan is submitted and approved by the Village Administrator or his/her designee prior to submission of final plat or upon application for a site building permit, whichever is applicable.
- (b) Any public park improvements must be shown on the site plan or construction plan.

- (c) Detailed plans and specifications for park improvements hereunder shall be due and processed in accordance with the procedures and requirements pertaining to public improvements for final plats and for building permit issuance, whichever is applicable.
- (d) All plans and specifications shall meet or exceed the Village's standards in effect at the time of the submission.
- (e) If the improvements are constructed on land that has already been dedicated to and/or is owned by the Village, then the developer must post payment and performance bonds equal to park development fees or value of the park agreed upon, whichever is greater to guarantee the payment to subcontractors and suppliers and to guarantee the developer completes the work in accordance with the approved plans, specifications, ordinances, and other applicable laws. This includes guaranteeing performance in lieu of completing the park improvements prior to final plat recordation.
- (f) Park improvements may be constructed on park land dedicated to the Village that satisfies requirements of Section F; or, if approved by the Village Administrator, improvements may be made in an existing or proposed Village park that is located in the appropriate park district, within one half-mile to one-mile walking or biking distance to the residents it will serve.
- (g) For a public park, the developer shall be required to provide a two-year maintenance bond that is equal in amount to twenty percent (20%) of the construction cost of said park improvements and a manufacturer's letter stating any play structure, equipment, and safety surfaces were installed in accordance with the manufacturers' installation requirements.
- (h) For a public park, the developer shall provide a copy of the application and subsequent inspection report prepared by the State Department of Licensing and Regulation or their contracted reviewer for compliance with the Architectural Barriers Act, codified as Vernon's Ann. Civ. St. ART 9102.
- (i) For a public park, all manufacturers' warranties shall be provided for any equipment installed in the park as part of these improvements.
- (j) For a public park, upon issuance of a Certificate of Completion and Acceptance, the developer shall warrant the improvements for a period of two (2) years.
- (k) For a public park, the developer shall be liable for any costs required to complete park development if:
  - 1. Developer fails to complete the improvements in accordance with the

approved plans; or

2. Developer fails to complete any warranty work.

(l) All public park improvements shall be inspected by the Village while construction is in progress and when complete to verify park requirements have been satisfied.

(m) Once the public park improvements are constructed, and after the Village Administrator has accepted such improvements, the developer shall convey such improvements to the Village free and clear of any lien or other encumbrances.

(n) The public park improvements will be considered complete with a Letter of Completion and Acceptance from the Village and will be issued after the following requirements are met:

1. Improvements have been constructed in accordance with the approved plans; and
2. Improvements have been inspected and reviewed by Village staff for park land ordinance compliance pursuant to the terms, conditions and requirements under this Ordinance.

#### **J. Credit for Private Parks**

(a) The fee in lieu of land dedication is not eligible for reimbursement and shall be paid at the amount calculated in Section G.

(b) Up to seventy-five percent (75%) of the park development fees paid by a developer may be eligible for reimbursement toward the construction of private park facilities pursuant to the terms, conditions and requirements under this Ordinance and in the Park Land Dedication Manual. The amount retained for deposit in the Village's park land dedication fund are for purposes of defraying the financial burden private subdivisions impose on the existing public park system in Salado.

#### **Private Park Improvements Requirements & Standards.**

(a) The private park and open space shall be maintained by the owner of the property or the future residents of the subdivision.

(b) Private ownership and maintenance of the private park and open space is adequately provided for by recorded agreement, covenants or restrictions. Use of the private park is restricted for park and recreation purposes by recorded covenant, which runs with the land in favor of future owners of the property and which cannot be defeated or eliminated without the written consent of the Village or its successors.

(c) Facilities must be similar or comparable to what would be required to meet public

park standards and recreational needs as set forth in Sections F and G and the Park Land Dedication Manual, and other national, federal, state and local laws.

- (d) Eligible private park improvements include various active and passive outdoor amenities.
- (e) Private park design must be reviewed and approved by the Village Administrator prior to the platting of the first unit, if a multi-phased development.
- (f) Private park must include at least three (3) signature elements, two (2) complementary park elements and include the standard park improvements requirements set forth in the Park Dedication Manual.
- (g) The cost of construction for private parks must meet or exceed the full park development fee per dwelling unit from Section H.
- (h) Before a reimbursement is approved, the Village shall make written findings that the certain conditions are met, pursuant to this Ordinance and the Park Land Dedication Manual, including the following, but not limited to:
  - i. Developer is required to submit all invoices and checks paid toward the construction of the private park.
  - ii. Developer must allow Village staff to conduct a site visit to verify private park improvements.
  - iii. Developer must provide an affidavit stating the cost of private park improvements meets or exceeds the required full park development fee per dwelling unit from Section H.
- (i) All private parks shall be constructed concurrently with construction of the first unit or phase of the development or concurrently with construction of the phase or unit where the park is located. Fees paid in lieu of park land dedication and park development are due at the time of recordation.
- (j) Required documentation. In order to receive the reimbursement for private parks, the developer shall submit the required documentation in Section C to the Village at the time of final plat filing sufficient to establish that the requirements above have been satisfactorily met. The Village Administrator shall evaluate and approve the documentation submitted prior to any credit being given.

## **K. Reimbursement for Village-Acquired Park Land**

The Village may from time to time acquire land for parks in advance of actual or potential development. If the Village does acquire park land in a park quadrant for a neighborhood or community park, the Village may require subsequent park land dedication requirements to be made by payment of in fee in lieu of land only. This will be to reimburse the Village for the cost(s) of acquisition.

## **L. Application Review Process**

With each subdivision application, planned development application, mixed-use and multifamily site development permit, the developer shall submit to Development Services Department a completed park land dedication worksheet developed by the Village, and a letter indicating the developer's intent to meet the park land dedication requirements pursuant to this Ordinance.

The developer should provide the Village with an exhibit that includes the proposed park land's location and any other information that will aid Village staff in making the determination that the proposed park location complies with applicable regulations.

Land to be dedicated for public park land shall be identified on the Concept Plan, Preliminary Plat, Final Plat, and Subdivision Construction Plans.

When construction of park improvements and/or private parks is proposed, all amenities shall be identified on the Subdivision Construction Plan or Site Development Plan, as applicable.

If a private or public park is to be constructed, the park location should be indicated with a general idea of the park design and when the park will be constructed.

## **M. Appeal Process**

Any decision under this Ordinance made by the Village Administrator may only be appealed to the Board of Aldermen and must be appealed in writing within ten (10) working days of the Village's decision.

The Village Administrator may refer approval of park land dedication or park development fees to the Board of Aldermen for any reason.

## **N. Submitting Park Fees**

Any fees required to be paid pursuant to this Ordinance shall be remitted:

- a. Prior to the issuance of any site development building permits for multi-family development, or mixed-use development; or
- b. At the time of plat recordation for single family, duplex, multi-family or mixed-use residential or townhouse development;

c. All development in the ETJ must pay fees at the time of plat recordation.

**O. Use of Park Fees**

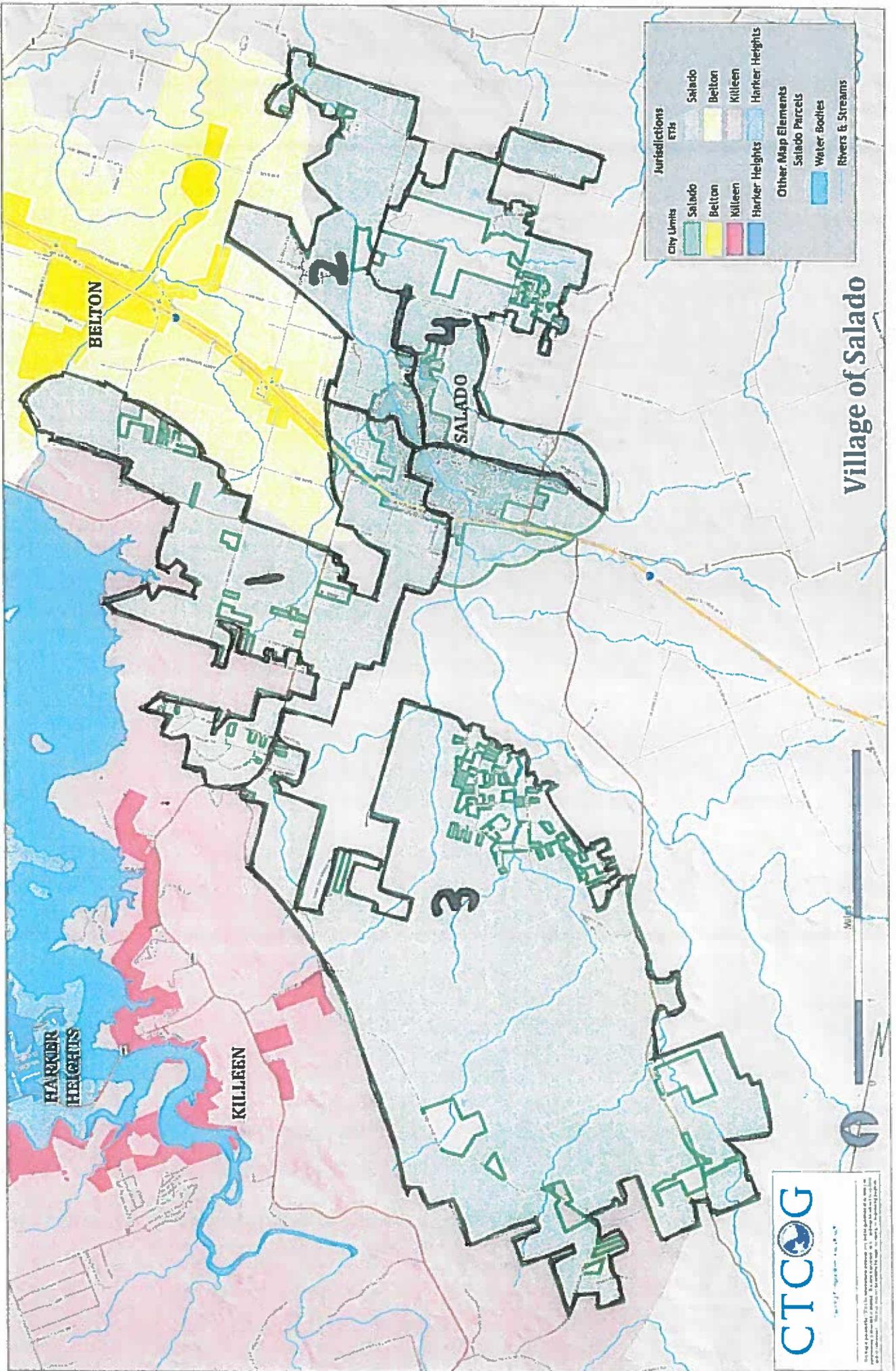
All fees in lieu of park land dedication and park development fees for neighborhood and community parks will be deposited in a fund referenced to the park district to which they relate. Funds shall be used solely for the acquisition or leasing of park land and the development, improvement, or upgrades of new and existing parks. All expenditures shall be administered in accordance with the current purchasing requirements of the Village. Funds shall not be used for the operation and maintenance of parks.

**P. Ordinance Review & Reporting**

The Board of Aldermen shall review the fees established and the amount of park land dedication required in this Ordinance at least once every three (3) years. Failure to review by the Board of Aldermen shall not invalidate this Ordinance.

**Q. Right to Refund**

The Village shall account for all fees in lieu of land and all development fees paid under this Ordinance with reference to the individual plat(s) involved. Any fees paid for such purposes must be expended by the Village within seven (7) years from the date received by the Village for acquisition and/or development of a park, as required herein. Such funds shall be considered to be spent on a first-in, first-out basis. If not so expended, the payor shall be entitled to a prorated refund of such sum, computed on a square footage of area basis. The payor must request such refund within one (1) year of entitlement, in writing, or such right shall be barred.



Village of Salado

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